



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/822,083

04/08/2004

Mathieu Lion

25402-005

2211

32137 7590 07/10/2008

PATENT DOCKET CLERK
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER

NGUYEN, TUAN N

ART UNIT

PAPER NUMBER

3751

MAIL DATE

DELIVERY MODE

07/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/822,083	Applicant(s) LION ET AL.	
	Examiner Tuan N. Nguyen	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 and 29-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/7/08 have been fully considered but they are not persuasive as indicated below and are moot in new ground of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13, 15, 16, 19-26, and 30-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peilet (discussed in the previous office actions) in view of Niedospial, Jr.

The Peilet reservoir does not have the shape as claimed, attention is directed to the Niedospial, Jr. reference which discloses a flexible reservoir handle (600) having the shaped as claimed (see Figs. 28 and 29) having an externally disposed rib (about 606) with an orifice (522) for suspending the reservoir. The upward arc is side way as shown in Fig. 28. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Peilet reservoir handle, an externally disposed rib with an orifice as, for example, taught by Niedospial, Jr. in order to suspend the device for sale display or for storage.

Peilet discloses the handle and the reservoir as claimed except for their specific range size as claimed. It would have been obvious to one having ordinary skill in the art

Art Unit: 3751

at the time the invention was made to obtain a size in the specific range as claimed, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

3. Claims 1-13, 15-17, 19-26 and 29-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vayrette (discussed in the previous office actions) in view of Niedospial, Jr.

The Vayrette reservoir does not have the shape as claimed, attention is directed to the Niedospial, Jr. reference which discloses a flexible reservoir handle (600) having the shaped as claimed (Figs. 28 and 29) having an externally disposed rib (about 606) with an orifice (522) for suspending the reservoir. The upward arc is side way as shown in Fig. 28. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Vayrette reservoir handle, an externally disposed rib with an orifice as, for example, taught by Niedospial, Jr. in order to suspend the device for sale display or for storage.

Vayrette discloses the handle and the reservoir as claimed except for their specific range size as claimed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to obtain a size in the specific range as claimed, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

4. Claims 14, 17, 18 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peilet in view of Niedospial, Jr., as applied to claim 1 above, and further in view of Landen et al. (hereinafter Landen).

The Vayrette reference teaches all of the limitations except for those in claims 14, 18 and 27; however, those limitations are disclosed by Landen as discussed in the previous office action. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Vayrette device to have the specific as set forth in claims 14, 18 and 27 as for example taught by Landen since known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces that are predictable to one of ordinary skill in the art.

5. Claims 14, 18 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vayrette in view of Niedospial, Jr., as applied to claim 1 above, and further in view of Landen et al. (hereinafter Landen).

The Vayrette reference teaches all of the limitations except for those in claims 14, 18 and 27; however, those limitations are disclosed by Landen as discussed in the previous office action. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Vayrette device to have the specific as set forth in claims 14, 18 and 27 as for example taught by Landen since known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces that are predictable to one of ordinary skill in the art.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan Nguyen/
Primary Examiner, Art Unit 3751

TN